

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MARSHALL G. HILES,
Plaintiff,

Case No. 1:12-cv-673
Weber, J.
Litkovitz, M.J.

vs.

ARMY REVIEW BOARD
AGENCY, et al.,
Defendants.

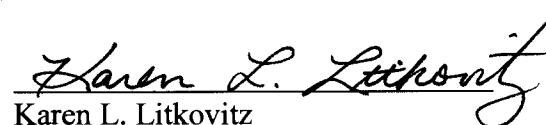
**REPORT AND
RECOMMENDATION**

This matter is before the Court on plaintiff's "Motion to amend and request for summary judgment" (Doc. 54), the federal defendants' response in opposition to plaintiff's motion (Doc. 56), and plaintiff's reply memorandum in support of his motion (Doc. 57). For the reasons stated in the undersigned's Order and Report and Recommendation issued on March 25, 2013 (Doc. 38), the proposed amendment would not cure the deficiencies in the original complaint and would therefore be futile. Accordingly, plaintiff's motion to amend the complaint and for summary judgment on the amended complaint should be denied. *See Coe v. Bell*, 161 F.3d 320, 341-42 (6th Cir. 1998) (factors relevant to the Court's decision regarding leave to amend include "[u]ndue delay in filing, lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies by previous amendments, undue prejudice to the opposing party, and futility of amendment") (quoting *Brooks v. Celeste*, 39 F.3d 125, 130 (6th Cir. 1994)).

IT IS THEREFORE RECOMMENDED THAT:

Plaintiff's "Motion to amend and request for summary judgment" (Doc. 54) be **DENIED**.

Date: 8/12/14


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

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